

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

FEDERAL TRADE COMMISSION,)	
)	
)	
Plaintiff,)	Civil Action No. 3:20-cv-01979-M
)	
v.)	
)	
NEORA, LLC, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**PLANTIFF FEDERAL TRADE COMMISSION’S
UNOPPOSED MOTION FOR LEAVE TO FILE DOCUMENTS UNDER SEAL**

Pursuant to Local Rule 79.3 and the parties’ Protective Order in this case (Dkt. 46), Plaintiff Federal Trade Commission (“FTC”) respectfully requests leave to file its Objections to and Motion to Strike Defendants’ Summary Judgment Opposition Evidence under seal. In support, the FTC states as follows:

MEMORANDUM

1. The FTC is filing concurrently with this motion its Objections to and Motion to Strike Defendants’ Summary Judgment Opposition Evidence (“Motion to Strike”).
2. The FTC’s Motion to Strike discusses in detail, quotes, and cites information from a brief and exhibits that Defendants Neora, LLC (“Neora”) and Jeffrey Olson (collectively, “Defendants”) designated as Confidential Material pursuant to the Protective Order entered in this action on March 6, 2021, and from exhibits that contain information from such documents. Dkt. 46. This includes the following previously-filed documents: Defendants’ Brief in Support of Opposition to FTC’s Motion for Summary Judgment (Dkt. 226), DX 35 (Dkt. 208-10, Defs. Resp. App. 817); DX44 (Dkt. 208-4, Defs.’ Resp. App. 1205-06, 1258); DX68 (Dkt. 219-2,

Defs.’ Resp. App. 2834-2957); DX56 (Dkt. 210-6, Defs.’ Resp. App. 1934-87); DX63 (Dkt. 211-3, Defs.’ Resp. App. 2083-87); DX65 (Dkt. 211-5, Defs.’ Resp. App. 2091-98); DX66 (Dkts. 211-5, 212-1, 213-1, 214-1, 215-1, 216-1, 217-1 & 218-1, Defs.’ Resp. App. 2099-2831); and DX69 (Dkt. 219-3, Defs.’ Resp. App. 2958-73) (collectively, the “Subject Filings”).¹

3. Under the Protective Order, a party who wishes to submit material designated as Confidential Material to the Court must do so under seal. Dkt. 46 § VII. For this reason alone, the FTC respectfully requests that the Court permit to be filed under seal the FTC’s Reply.

4. Courts have long recognized that the “public has a common law right to inspect and copy judicial records.” *S.E.C. v. Van Waeyenberghe*, 990 F.2d 845, 848 (5th Cir. 1993) (citing *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 (1978)); *Belo Broad. Corp. v. Clark*, 654 F.2d 423, 429 (5th Cir. 1981)). “Although the common law right of access to judicial records is not absolute, ‘the district court’s discretion to seal the record of judicial proceedings is to be exercised charily.’” *Van Waeyenberghe*, 990 F.2d at 848 (quoting *Fed. Savings & Loan Ins. Corp. v. Blain*, 808 F.2d 395, 399 (5th Cir. 1987)).

5. The FTC is committed to the presumption of public access to judicial records. The FTC does not agree that all the material in the Subject Filings is properly designated as Confidential Material under the Protective Order or that such material should be sealed from public access. Nevertheless, the FTC seeks leave to seal to comply with its obligations under the Protective Order.

6. Pursuant to § VII(B) of the Protective Order, the FTC’s compliance with the Protective Order is not an admission that the Subject Filings contain Confidential Material. Dkt.

¹ The Subject Filings cited in the Motion to Strike have previously been filed under seal as part of the Defendants’ summary judgment opposition and attached appendices.

46. The FTC does not waive any right to object to or challenge the designations made by Defendants at a subsequent time, and it does not waive any right to move this Court to unseal any sealed documents at a subsequent time.

7. In compliance with Local Rule 7.1(c), a proposed order granting this Motion is attached.

8. The undersigned counsel conferred with counsel for the Defendants, who indicated that Defendants do not oppose the relief requested in this Motion.

CONCLUSION

For the foregoing reasons, the FTC respectfully requests that the Court grant it leave to file its Motion to Strike under seal.

Respectfully Submitted,

Dated: August 26, 2022

/s/ Rachel F. Sifuentes

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FEDERAL TRADE COMMISSION

CERTIFICATE OF CONFERENCE

Pursuant to Federal Rule of Civil Procedure 37(a)(1) and Local Rule 7.1(a), the FTC certifies that its counsel conferred with Defendants' counsel in good faith by email on August 23, 2022. Defendants do not oppose the relief requested in this Motion.

/s/ Rachel F. Sifuentes
RACHEL F. SIFUENTES